

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

Jerry L. Angelo,	:	
Plaintiff	:	Civil Action 2:07-cv-796
v.	:	Judge Marbley
Michael J. Astrue,	:	Magistrate Judge Abel
Commissioner of Social Security,	:	
Defendant	:	

ORDER

Plaintiff Jerry L. Angelo brought this action under 42 U.S.C. §405(g) for review of a final decision of the Commissioner of Social Security denying his application for a period of disability and disability insurance benefits. (Doc. 4.) This matter is before the Court on Plaintiff's objection to the Magistrate Judge's June 19, 2008 Report and Recommendation ("R&R"). For the reasons below, the Report and Recommendation is **ADOPTED in PART** and **MODIFIED in PART**.

Plaintiff Jerry L. Angelo's objection, for the most part, does not take issue with the Report and Recommendation. It essentially petitions the Court to vacate that portion of the R&R that recommends affirming the ALJ's decision that Plaintiff's physical and mental impairments do not meet or equal Listing 12.05(C). Angelo asserts that this would allow the ALJ to provide him a full and/or uncluttered hearing on remand. The Court sustains Angelo's objection.

Accordingly, the case is **REMANDED** for further consideration in light of

Social Security Ruling 02-01p, 2000 WL 628049 (Sept. 12, 2002), which provides guidance for cases involving obesity.

s/ Algenon L. Marbley
United States District Court Judge